



INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

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June 20, 2008

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

WT Docket No. 06-150
PS Docket No. 06-229

RE: Comments on the Second Further Notice of Proposed Rulemaking in the Matter of Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band

The International Association of Fire Fighters (IAFF) respectfully submits the following comments in response to the Commission's May 14, 2008 request for comments on how the Commission should proceed with the re-auction and licensing of the 700 MHz D Block spectrum while maximizing the public safety and commercial benefits of a nationwide, interoperable broadband network. The IAFF represents more than 288,000 full-time professional fire fighters and emergency medical personnel who protect 80 percent of the nation's population and who would be primary users of a nationwide public safety network.

For the past two and a half years, the IAFF has been involved in the ongoing discussion with members of the public safety community, telecommunications industry and elected officials about how to best assure communications among and between emergency responders. Having watched with interest the Commission's proceedings to date, the recent failure of the D Block Auction has prompted us to express our views on a potential nationwide public safety network.

Before offering our views, I would be remiss if I did not first express our gratitude for the work of the Commission and the Public Safety Spectrum Trust (PSST), the non-profit entity selected to manage the network on behalf of public safety interests. Both organizations have labored diligently and conscientiously to craft a proposal that seeks to balance numerous interests and resolve complex technological and economic issues. We are indebted to them for their impressive efforts.

It is therefore with reluctance that we feel obliged to express a number of serious concerns we have with the Commission's proposed solution to this important problem. Specifically, we are unconvinced that the Public/Private Partnership proposed in the *Second Report and Order* would adequately address current shortcomings in public

safety communications. We would also like to take this opportunity to express our thoughts regarding the rules and requirements, essential capabilities and potential users of a nationwide public safety network.

The 700 MHz Public/Private Partnership

Our primary concern is that the entire public/private partnership model upon which the D Block auction was conducted may neither address the current shortcomings in emergency communications nor contribute to interoperable communications. Specifically, we are concerned that commercial interests will trump public safety interests under such a system -- the proposals that public safety will set the network requirements and will receive “priority access” to the network during an emergency do not adequately address these concerns.

First, we are concerned that the public safety licensee will encounter less than responsive service from the potential D Block licensee when dealing with public safety requirements regarding expansion, performance and maintenance of the network. Some fire departments which currently rely on the private sector for data transmission have reported a lack of responsiveness to public safety needs under their current networks. We are concerned about the possibility for more such problems under a national network.

Furthermore, we are concerned that without very close oversight, commercial lessees on a public/private network would quickly receive preferable treatment. It is not unreasonable to assume that commercial usage of the network would quickly outpace public safety usage, simply due to the potential number of users. Such a scenario would provide commercial users with significant leverage in negotiating price, access to spectrum, customer service and equipment preferences, to name a few.

Lastly, we believe that the D Block licensee would take every available opportunity to drive down its costs, whether related to maintenance, equipment or service. We have already seen evidence that the private sector is more than willing to cut costs when dealing with public safety. Manufacturers of portable radios, for example, have chosen to market one-size-fits-all radios to meet specific price points, rather than the needs of public safety users. As the minority user, the fire service has made do with equipment designed for the masses. For example, digital radios work for most applications but do not perform well in the extreme environments encountered in fire fighting. As a result, the IAFF and many fire departments have concluded that analog radios are more effective for daily operations. In order to maximize profits, private sector companies can be expected to place cost-cutting measures ahead of public safety.

To address the inevitable tension between corporate profits and public safety, any public-private partnership must be subject to independent, strict and vigorous oversight to assure that public safety remains the priority and that public safety agencies are well-served.

Public Safety Broadband Licensee

The IAFF agrees with the Commission that public safety should control the public safety spectrum. However, we hold serious concerns about the significant relationship between the public safety licensee and its for-profit “technical advisor.” We urge the Commission to carefully examine the current and future role that Cyren Call plays in the establishment of a public safety broadband network.

Cyren Call approached the IAFF in 2006 to discuss its proposal for a public safety broadband network, which at the time would have required the Commission to allocate 30 MHz to a single licensee known as the “Public Safety Broadband Trust.” Controlled by public safety stakeholders, the Trust would have overseen the development of a shared public/private network funded by private capital. Cyren Call’s proposal would have provided public safety with priority usage of the ensuring network and permitted the Trust to lease excess capacity to commercial users.

Key to Cyren Call’s proposal was the role of an “Exclusive Agent” to serve as a coordinator for the Trust in negotiations with commercial users. The Agent would also have advised the Trust on the development of the network and provided continual monitoring of the network to assure network quality and public safety priority access. In return for such services, the Public Safety Broadband Trust would have paid the Exclusive Agent an as-yet undetermined fee.

As part of Cyren Call’s proposal, the IAFF was to be included on the Board of Directors of the Public Safety Broadband Trust.

Although discussions with Cyren Call continued for several months, the IAFF declined to endorse Cyren Call’s proposal due to doubts about the concept of a public/private partnership, and serious concerns about the significant role of the “Exclusive Agent.”

We were therefore extremely concerned when Cyren Call was later named advisor to the eventual public safety licensee, the Public Safety Spectrum Trust. While we do not begrudge the public safety licensee the ability to procure counsel from experienced telecommunications experts, the similarities between Cyren Call’s original proposal and the eventual outcome raises numerous red flags.

Reports that potential bidders were told by Cyren Call to expect estimated annual \$50 million spectrum lease payments, as well as the current financial arrangement between Cyren Call and the PSST—in which Cyren Call is simultaneously funding and receiving payments from the PSST – are also disconcerting.

Safeguards must be put in place to assure that the interests of for-profit entities do not come at the expense of public safety in this important endeavor. One possible solution to this problem is to establish a grant program to fund the administrative and operational costs of the public safety licensee, thus eliminating the need for the public safety licensee to procure such funding from for-profit entities.

Funding issues aside, the Commission must clarify the requirements and limitations of any relationships the public safety licensee establishes with for-profit entities.

Network Requirements

Despite our concerns regarding a public/private partnership model and the relationship between the PSST and Cyren Call, the IAFF is committed to achieving nationwide interoperability. Should a nationwide network be established, such a network must meet certain specific requirements to achieve this goal. Such a network must:

- *Allow network users to communicate seamlessly with other public safety networks.* We anticipate that, for a variety of financial and practical reasons, numerous public safety agencies will either decline to participate or be unable to participate. To achieve nationwide interoperability, a technical or technological solution must be provided to allow network users to communicate with other public safety networks in an emergency.
- *Allow network users to use a variety of communications devices from multiple manufacturers.* Public safety users will have differing operational requirements and differing operational skills. Police may require different equipment than will fire fighters. Additionally, the differences between public safety budgets will preclude some agencies from purchasing some equipment models. The network must allow for these different priorities and capabilities.
- *Provide reliable service during everyday emergencies as well as large-scale disasters.* Conditions during a large disaster, whether natural or man-made, will likely prove chaotic. The network must be hardened and able to withstand various scenarios that may disrupt the communications infrastructure. Additionally, a large disaster will likely see increased communications traffic. The network must be able to withstand high traffic without impacting communications reliability. Furthermore, while large-scale disasters will likely require nationwide interoperability, it is hoped they will be a rare occurrence. The network must provide reliable communications for everyday public safety operations.
- *Provide affordable service for public safety.* As public safety budgets nationwide struggle under a weak economy and as property values continue to drop, affordable service and equipment is a must for any public safety agency to participate in the network.

We remain unconvinced that these essential requirements are fully achievable under the Commission's current proposal. Indeed, several potential bidders indicated that their decision on whether or not to bid was based, in part, on a lack of specificity regarding the network's technical requirements. The Commission should clarify its rules to eliminate

this ambiguity, and should amend its requirements to clearly and definitively reflect the aforementioned priorities.

Eligible Users

We firmly recommend that the portion of spectrum allocated to public safety by Congress be dedicated for public safety's sole use. When the FCC established the Public Safety Wireless Advisory Committee (PSWAC) in 1993, the increasing need for additional public safety spectrum was apparent. The *Final Report of the PSWAC* called for the addition of 70 MHz of new spectrum over 15 years for federal, state and local public safety use.

Over time, population growth in large metropolitan areas and in the western half of the United States has created a need to grow public safety services, and the subsequent need for more radio frequencies to service public safety. This trend is likely to continue. The 24 MHz allocated in response to the PSWAC's recommendation represents only one-third of public safety's estimated need in 1993. Given public safety's current and growing spectrum needs, we simply cannot afford to lose even a small portion of public safety spectrum to commercial entities.

We also recommend that the Commission refine its definition of "public safety entities" to limit network access to bona-fide public safety agencies. The Commission's definition of "public safety entities" restricts users to those entities whose "sole or principal purpose...is to protect the safety of life, health, or property;" are provided by state or local government entities or nongovernmental organizations that are authorized to provide such services by a governmental entity; and whose services are not commercially available to the public by such entity. Under this definition, entities such as school bus companies, road and highway maintenance crews and public waste disposal agencies could reasonably be described as having the principal purpose of protecting life, health or property. While such entities may meet the letter of the law, we question whether they meet its intent.

By allowing agencies that do not support the emergency response aspect of public safety to use the shared network, the Commission ultimately reduces the spectrum available for emergency response activities, and does a disservice to its stated goal of maximizing the public safety benefits of the 700 MHz spectrum. We therefore recommend that the Commission refine its definition of public safety entities to restrict eligibility only to those agencies which directly provide or support bona-fide emergency response activities.

Moreover, all public safety agencies must be given the flexibility to choose whether or not to participate based on their own unique public safety needs and obligations. Despite the importance of achieving nationwide interoperability, it is far more important that public safety agencies have communications systems that best serve their particular agency's everyday operational needs. For example, a nationwide network that requires

the use of digital equipment would not be the best choice for most fire departments, since fire departments believe analog radios are necessary for safe and efficient fire ground operations.

Some agencies may also face financial restrictions to using the proposed network. Since 9/11, the renewed focus on achieving interoperability has led many states and localities to update or replace their communications systems. In many cases, such activities were encouraged or even funded by the federal government. Unfortunately, without a national communications standard, states and localities established differing systems which may not necessarily be compatible with achieving nationwide interoperability. This, in addition to new equipment or systems acquired as a result of the narrowbanding migration, may render migration to a national network unaffordable for many agencies.

Focus on Public Safety

As the Commission moves to address the many issues related to the construction and deployment of a nationwide public safety network, it must assure that its actions continue to serve the best interests of public safety. The IAFF is concerned that the Commission's stated goals are too focused on the potential commercial benefits of establishing a nationwide network.

Given potential bidders' concerns regarding the cost and commercial viability of establishing such a network, some may be tempted to amend the proposed rules to enhance the commercial benefits of a nationwide network. While certain modifications may be necessary to attract bidders, the Commission must be careful that any such actions do not come at the expense of public safety. The Commission's primary concern and main goal should be establishing a nationwide network to enable communications among and between public safety agencies. Any modifications to its plan should reflect this focus.

Conclusion

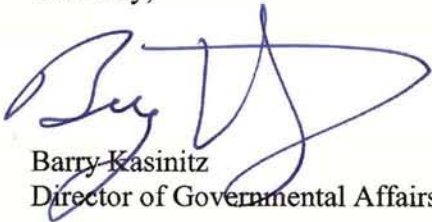
Finally, we would like to comment broadly on the issue of providing public safety with a nationwide interoperable communications network. The failure of the D Block to attract a commercial bidder at the reserve price, the numerous questions swirling about public safety's requirements for the network, and the uncertainty of whether or not such a network will actually meet public safety's needs has given us serious pause. Is a nationwide public safety broadband network necessary to achieve nationwide interoperability? We are not convinced that it is.

We as a nation have been so hurried to achieve "interoperability" that we have very likely put the cart before the horse. We have invested millions of dollars in isolated new communications equipment and systems without a plan to interweave such systems, and without questioning assumptions about how such systems would work during a major disaster. We have put various interests ahead of best serving of the public.

It is time to take a step back and have a serious discussion, removed from political and commercial interests, about how we can best achieve interoperability. Quite possibly, the answer involves building local or regional networks built to national standards so they can be linked when necessary. Perhaps there is an even simpler way. No matter the solution, finding it will require a good dose of bravery and political will. The re-auction of the D Block and the public safety spectrum provides public safety, industry and the Commission with a unique opportunity to jump-start this discussion. The IAFF is committed to our shared goal of achieving nationwide interoperable communications, and would gladly be the first to join such a conversation.

Thank you for your consideration of these comments. Please do not hesitate to contact us if you have any questions or would like additional information.

Sincerely,



Barry Kasinitz
Director of Governmental Affairs